

Statement of Congresswoman Tammy Baldwin On H.R. 3313, the “Marriage Protection Act”

July 22, 2004

Mr. Speaker, with this bill, we face no less than the specter of a sign posted on the federal court house door which reads “you may not defend your constitutional rights in this court. You may not seek equal protection here. You may not petition your government for redress here.” Today, the “you” is gay and lesbian American citizens. Who will it be next?

Today the House is poised to pass legislation that, were it to become law, could do grave damage to our Republic. I strongly oppose HR 3313 and urge all Members to vote against this legislation. I urge the members in the majority to reconsider this extreme and radical approach to addressing the issue of same sex marriage and their concerns about so-called judicial activism. Enacting court stripping legislation would seriously undermine the faith of the American people in this Congress, in the courts, and in the principle of separation of powers.

When writing the Constitution, the Founders wisely decided that the best way to secure our freedom and liberties was to establish three co-equal branches of government—the Congress, the Executive and the Supreme Court. These three branches of government have different but overlapping authorities to ensure that each branch is subject to checks and balances. Not only will there be times that they will be in disagreement about a particular issue or law, the structure of the Constitution makes these conflicts inevitable.

It is a terrible mistake to try to strip one branch of government from its involvement in evaluating particular laws. This is particularly true when considering the Courts, whose Constitutional and historic role is to defend our liberties.

And, once the “court stripping” door is open, where will it stop? Will this language be added to legislation on the issue of abortion, guns, prayer, school choice, affirmative action? How about the USA PATRIOT Act? I suspect this is just the tip of the iceberg.

The late Sen. Barry Goldwater (R-AZ), a stalwart conservative, said about previous court stripping attempts that “frontal assault on the independence of the Federal courts is a dangerous blow to the foundations of a free society.” I urge you to reject this unnecessary, unconstitutional and unwise legislation.